

Chambers of  
Jeffrey T. Miller  
United States District Judge

---

STANDING RULES FOR CIVIL MATTERS

---

These rules are designed to assist attorneys or parties appearing pro se before Judge Miller in civil matters. They answer many commonly received questions and explain procedures that are specific to Judge Miller's chambers. To reach Judge Miller's Judicial Assistant or one of his law clerks, please call 619-557-6627.

**I. General Calendaring Information**

Except as otherwise provided herein or as specifically ordered by the Court, all parties are expected to strictly comply with this District's Local Rules. The Local Rules of Practice for the Southern District of California can be found on the Court's website:

<http://www.casd.circ9.dcn/index.php?page=local-rules>

Civil motions are generally scheduled on ***Fridays beginning at 1:30 p.m.*** Judge Miller's civil calendar is set and maintained by his law clerks. When seeking to set or continue a civil motion, counsel should first contact the law clerk assigned to the case. If you are instructed to e-file a joint motion to continue the hearing date ***remember to submit a proposed order simultaneously to e-file miller@casd.uscourts.gov.*** Proposed Orders must be submitted in Word Perfect or Word format. Please *do not wait until the last minute* to seek a continuance.

**Discovery matters and Settlement Conferences** are handled by the assigned magistrate judge. The parties shall contact the appropriate magistrate judge's chambers to calendar hearings in discovery matters and settlement conferences.

**II. Communication with the Court**

**Telephone Calls.** Telephone calls to chambers are permitted ONLY for matters such as docketing, scheduling or calendaring. Court personnel are prohibited from giving legal advice or discussing the merits of a case. When calling chambers, be prepared to identify your case as odd or even based on the last digit of the case number (ie 09cv1234 is an even numbered case, 08cv2345 is an odd numbered case), so your call can be directed to the appropriate law clerk.

**Document submissions.** Please refer to the Local Rules for a complete list of deadlines and compliance requirements. <http://www.casd.circ9.dcn/index.php?page=local-rules>. Except as otherwise provided herein, or as specifically ordered by the Court, all parties are expected to strictly comply with this District's Local Rules.

The Electronic Case Filing Administrative Policies & Procedures Manual can be found on the Court's website at: <http://www.casd.uscourts.gov/index.pho?page=attorney-assistance>.

***Courtesy copies of e-filed documents longer than 20 pages, including exhibits, MUST be submitted to chambers.*** Failure to submit courtesy copies may result in a continuance of the hearing.

**Faxes.** Faxes to chambers are **prohibited**, unless specifically requested by the Court. If faxes are requested, copies of the same shall be simultaneously faxed or delivered to all counsel. Contact chambers for the fax number.

**Letters.** Letters and other ex parte communications which relate to a case shall not be sent to chambers, unless specifically requested by the Court. Copies of correspondence between counsel shall not be sent to the Court. If letters are requested by the Court, copies of the same shall be simultaneously delivered to all counsel. Requested correspondence should be addressed as follows:

Jeffrey T. Miller, United States District Judge  
Southern District Of California  
Edward J. Schwartz U.S. Courthouse  
940 Front Street, Room 5190  
San Diego, California 92101-8917

### **III. Noticed Motions**

**Hearing Dates.** Counsel shall obtain all hearing dates from the Court's law clerks before filing moving papers. Any hearing dates for motions to be heard before Judge Miller scheduled by the magistrate judge assigned to the case shall be confirmed with Judge Miller's law clerks before the parties file their moving papers. Moving papers **MUST** be filed and served within 3 days of obtaining a motion hearing date from chambers.

**Oral Argument.** Although the Court often decides motions based on the papers submitted by the parties, it is the Court's policy to schedule oral argument for dispositive motions or when all counsel request oral argument. Counsel will be notified by the law clerk assigned to the matter once the decision is made as to whether oral argument is needed to assist in deciding a given motion. The Court endeavors to make the decision as to whether oral argument will be scheduled as early as possible.

**Points and Authorities.** In their memoranda of points and authorities, the parties shall state all legal and factual bases for the motion in the opening brief. Factual matters or legal arguments raised by a party for the first time in their reply brief, unless directly in response to the opposition, may not be considered.

**Statement of Non-Opposition, Failure to Oppose.** A party that determines that it will not oppose a given motion shall file a statement of non-opposition no later than 14 days before the hearing date. An opposing party's failure to file a memorandum of points and authorities in opposition to any motion will be construed as consent to the granting of the motion.

**Motions for Reconsideration.** *Motions for reconsideration are disfavored unless a party shows there is new evidence, a change in controlling law, or establishes that the Court committed a clear error in the earlier ruling.*

### **IV. Ex Parte Motions**

Ex parte applications are not subject to the scheduling requirements of L.R. 7.1 and do not require the parties to obtain a hearing date from chambers prior to filing the application. There are two broad categories of relief appropriate for resolution by ex parte application. The first category encompasses requests for simple administrative relief such as requests to enlarge time, shorten time, exceed the page limitations, etc. The second category encompasses requests for expedited substantive relief such as requests for temporary restraining orders, freeze of assets, seizure of infringing goods, etc.

**Requests for Administrative Relief.** In the majority of cases, the court will rule upon simple administrative requests within 48 hours, without requesting a response from the opposing party. The court will not consider any administrative request that has not been served on the opposing party. In the event a party opposes the application, the party must contact chambers immediately and

request the opportunity to submit a response.

**Requests for Substantive Relief without Notice.** True ex parte relief (that is, a request for relief without notice to the opposing party) is rarely appropriate unless authorized by statute. True ex parte relief is subject to the requirements of Fed.R.Civ.P. 65 and L.R. 83.3(h). Upon filing a motion for true ex parte relief, the proponent must immediately contact chambers and request a hearing. Chambers staff will inform the proponent of any additional procedures applicable to the party's request.

**Requests for Substantive Relief with Notice.** Where a party requests a temporary restraining order, or the application of a state law remedy encompassed within the scope of Fed.R.Civ.P. 64 or 69, notice must be provided to all interested parties. Upon filing the motion, the proponent shall immediately inform chambers that a motion for expedited relief has been filed with the court. The proponent shall provide chambers with the identity of opposing counsel and contact information. Pursuant to chamber policy, staff will contact the opposing party and request a response and, giving the nature of the request may also request a reply brief and/or set the matter for oral argument.

## **V. Continuances**

Parties requesting a continuance of any conference, scheduled motion, hearing date, deadline, briefing schedule, or other procedural changes, shall meet and confer prior to contacting the Court. If the parties reach an agreement, they shall e-file a joint motion with a detailed declaration of the reason for the requested continuance or extension of time. They shall also e-mail a proposed Order to [e-file miller@casd.uscourts.gov](mailto:miller@casd.uscourts.gov). Except in extraordinary circumstances, joint motions to amend a briefing schedule or to continue a motion hearing date must be filed no later than three court days before the affected date. If the parties are unable to reach an agreement, the requesting party shall file an ex parte application satisfying the applicable legal standard, with a particular focus on the diligence of the party seeking delay and any prejudice that may result therefrom. In addition, the ex parte shall state (1) the original date, (2) the number of previous continuance requests and (3) whether previous requests were granted or denied.

## VI. Proposed Orders

Proposed orders must be submitted simultaneously with the filing of all joint motions or exparte requests. The proposed order should be emailed to [efile\\_miller@casd.uscourts.gov](mailto:efile_miller@casd.uscourts.gov) in **Word Perfect** or Word format. All extraneous information (i.e. attorney and firm name, headers, footers and watermarks) should be removed from the proposed order. If possible, the docket number of the corresponding motion should be included in the caption. The proposed order should be named as follows: case number\_title\_date (ex. 00cv1234\_order granting continuance\_5 6 09)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SMITH	)	Civil No. 00cv1234 JM(KCA)
	)	
Plaintiff,	)	
v.	)	Order Granting Joint Motion to Continue
	)	Motion Hearing [Docket No. 12]
JONES	)	
	)	
Defendants.	)	
	)	

IT IS SO ORDERED.

**Motions in Limine.** Motions *in Limine* may be heard the Friday before the trial is scheduled to begin or the morning of the first day of trial prior to jury impanelment. The judge will assign a Motions *in Limine* date at the time of the Pretrial Conference. Before filing any motions *in limine*, parties are required to meet and confer in person in an attempt to resolve their dispute. If the parties are unable to resolve their differences, counsel filing the motion *in limine* shall attach a declaration documenting the parties meet and confer efforts and the reason for their unsuccessful efforts. Parties are encouraged to be selective with their motions *in limine* and not to file mundane or unnecessary motions.

## VII. Pre-trial Conferences

Parties shall submit the Proposed Pretrial Order as required by the Civil Local Rules, by the date indicated in the Scheduling Order issued by the magistrate judge assigned to the matter. The parties are NOT required to submit a Memorandum of Contentions of Fact and Law as set forth in C.P. 16.1(f)(2).

## **VIII. Trials**

Trials are generally scheduled Monday through Thursday, 9 a.m. to 12 noon and 1:30 p.m. - 4:30 p.m. Trial briefs should be filed no later than 5 calendar days before trial is to commence in all cases and shall include voir dire questions proposed for counsel and the Court.

**Jury Instructions.** Judge Miller prefers to use the Ninth Circuit Civil Jury Instructions when possible. *Proposed jury instructions should be filed by both sides one week prior to the commencement of trial.* The final jury instructions will be issued by Judge Miller after discussion with counsel.

**Jury Selection.** The courtroom deputy will provide counsel with a numerical list of the jury panel along with a seating chart. Judge Miller seats 8-12 jurors and permits counsel to voir dire after the jurors have answered a short biographical questionnaire. Counsel exercise their peremptory challenges in open court, on the record.

**Exhibits.** Counsel are requested to pre-mark exhibits with plaintiff/government counsel using numbers and defense using letters. All trial exhibits are returned to counsel at the conclusion of trial.

## **IX. Miscellaneous Procedures**

If a witness requires an interpreter, it is counsel's responsibility to notify the clerk or interpreter section, in advance, of the need for an interpreter for a witness. Counsel shall refrain from using foreign languages on the record in court. The Court Report only transcribes in English.

Where a party has more than one lawyer, only one may object during direct or cross-examination of a given witness.